Bombay Gazette.

Wednesday, December 3, 1817.

Volume 28.) *(Number 1435.*

CLARET
FROM
Gledstanes,
IMPORTED IN THE MONTH OF JUNE LAST,
BY THE SHIP
HYPERION,
may be had at the
GODOWNS
OF
MESSRS. JOHN LECKIE AND CO.
IN 6 DOZEN CHESTS,
at
RUPEES 30 PER DOZEN.
Bombay, 26th November, 1817.

To be Sold
BY AUCTION,
To-morrow Thursday the 4th Instant,
AT THE
GODOWN
OPPOSITE MR. TOMKINS'S
Auction Room,
A VARIETY OF
GOODS,
CONSISTING OF THE FOLLOWING
ARTICLES;

BOXES of Preserves, Saddlery, Plated Candle Sticks, Cruet Stands, Penknives, Razors, Ivory handle Table Knives & Forks, Dessert Ditto, Soda Water, Kegs of Beef and Tongues, Vinegar in bottles, Mustard, Hams, Cotton, Stockings, Earthen Ware in sets;—Also a few Casks of Nails. &c. &c.
Bombay, 3d December, 1817.

G. HIGGS
BEGS to inform his friends and the public, that he has just received a large lot of superior Horses from Bussorah.
Bombay, 3d December, 1817.

Advertisement.

Sales by Auction.
ON FRIDAY AND SATURDAY,
the
5TH AND 6TH INSTANT,
the
Undermentioned Articles
WILL BE
EXPOSED FOR SALE
AT
E. Reel & Co's.
AUCTION ROOMS,
Nesbitt's Lane,
VIZ.

HOUSEHOLD Furniture of different kinds, Spirits and Wines of every description, Hodgson's Pale Ale in Bottles, Perfumery of all kinds, a few elegant Hunting Saddles, Stationary of different kinds, a variety of Queen's Ware consisting of Dinner and Tea Sets, a few very fine Quadrants and Spy Glasses, Plated and Glass Ware, and a great variety of other articles.

N. B.—Mr. REEL respectfully informs the Public, that he has several, very dry and roomy Godowns to let.
Bombay, 3d December, 1817.

Advertisement.

THE American ship FAWN will sail direct for Boston, America, on or about the 12th of December next. A few passengers can be accommodated, if early application is made to Captain AUSTIN at his house in Hummum Street, opposite the store of BHICCAJEE MERJEE.
Bombay, 3d December, 1817.

Advertisement.

TO BE SOLD
BY PUBLIC AUCTION,
AT THE UPPERROOMED WAREHOUSE,
ADJOINING THE
TAVERN,
OPPOSISE TO
Gen. Jones's House,
On Tuesday next the 9th Instant,
A HANDSOME Europe Chariot and Harness, adapted for this Country, sent out on private Commission from England, and in excellent repair.—Also, some Europe Plate, a set of rich Worcester China, and sundry other articles for Housekeeping; a List of which may be seen as above.

At the same time and place will be disposed of, a spare Carriage Horse.

Likewise, a beautiful Chariot Arab Saddle Horse of high caste.

The whole being the property of a Gentleman quitting the settlement.

The sale to commence a 11 o'clock.
Bombay, 3d December 1817.

NAUTICAL CHRONICLE and NAVAL REPORT.

BOMBAY.

ARRIVED.—November 29, the Honourable Company's Cruizer Ariel, Lieutenant James Arthur, from Muscat.—Ditto 30, Ship Charlotte, Captain James Stevenson, from China.—December 1, Ship Fazel Karim, Captain J. A. Edwin, from Bussora.—Ship Sophia, Captain John Whiteside, from Ditto.

SAILED.—November 26, the Honourable Company's Cruizer Vestal, Lieutenant F. Faithful, to Suez.—Ditto 27, Portuguese Brig Ulysses, Commander Joze Joaquim Rapozo, to Surat.—Brig Jane, Capt. Joseph Ridgway, to Alepie, Columbo and Calcutta.

DEATH.—At Macao, on the 16th May, the Lady of Bartholomew Barretto Esq.

The Gazette.

WEDNESDAY, 3d DECEMBER 1817.

Not having, since our last, received a single paper from the other side of India, nor any additional intelligence from Europe, we are, of necessity, compelled to continue our extracts from those papers which were brought by the Hannah.

The Post Office Packets intended to be forwarded by the Carmarthen and the Huddart will close as we believe, this day.

The *Jemima* will sail in the course of eight or nine days, and as she is not a King's Packet, will present a good opportunity of forwarding letters to England.

The *Caroline* arrived on Sunday from China. The commercial intelligence, she brought, is considered to be good, as far as we are led to understand.

English Extracts.

IMPORTANT TO MERCHANTS.—By information lately received from a Gentleman residing in Holland, it appears that the American Minister in that country has succeeded in procuring an ordinance regulating trade to the Island of Java, by which it is provided that foreign vessels, coming from that Island, are exempted from the import duties upon entering the ports of Holland and Belgium, upon producing evidence of their having paid the export duties at Batavia.—Upon the same authority, we have the pleasure to state, since the 1st of January, no other or higher tonnage duties are imposed upon American vessels, in the Dutch ports, than upon their own vessels.—*National Intelligencer.*

MADRID, JUNE 12.

It appears that the expenses of the Spanish Monarchy amount to a sum, in reals, equal to - - - - - - - - - - £ 8,219,736
That the revenue amounts to - 5,971,263

Leaving a deficit of - - £ 2,248,473

In order to make head against this deficiency, the Minister has already carried into effect certain measures of retrenchment. He has discontinued the employment of supernumeraries in any branch of the service; he establishes a general contribution upon all species of property, civil and ecclesiastical, without exception; and raises a subsidy upon the clergy of six years' duration—which expedients are represented as likely to furnish the means of equalling the receipt with the expenditure.

The King of Spain says, "it is true, that the current public debt has necessarily increased; that the debt of the preceding reigns and of mine amounts to a considerable sum; that my troops experience the most afflicting wants; that they are destitute of every thing assential to their comfort; that the barracks have fallen to ruin; that the citizens bear the heavy burden of finding quarter and transporting baggage for the military; that in many places enormous exactions are arbitrarily enforced; that the marine is stript of every thing; that the coasts of the Peninsula and of the Colonies are laid waste by pirates; that the troubles of America deprive the mother country of her most effectual resources; that the Magistrates and public officers see months and years pass by without receiving their scanty salaries; that all their virtue and fortitude are requisite to prevent them from sinking under the wretchedness in which their families are plunged; and that it will demand extraordinary energy to recover that political power and consideration which it seems to have been the will of Providence that Spain should enjoy among mankind."

One of the Paris Papers contains a financial document from Spain, stating the excess of the expenditure beyond the revenue. The KING speaks to his people upon this subject directly from himself. He has this satisfaction at least—"You cannot say I did it"—We apprehend it will be found that the character of FERDINAND VII has been very little understood, and very largely misrepresented in this country. But it ought to be added, but the most marked disposition to misrepresent has been manifested by those who were the greatest admirers of BUONAPARTE, the true and only author of those sufferings which his CATHOLIC MAJESTY depicts and deplores. Gloomy and afflicting indeed is the picture which his MAJESTY draws But there is manliness, there is sincerity, there is true wisdom in the policy that has dictated. "In a moment," says Mr. BURKE, "when sudden panic is apprehended, it may be wise for a while to conceal some great public disaster, or to reveal it by degrees, until the minds of the people have time to be recollected, that their understanding may have leisure to rally, and that more steady Councils may prevent their doing something desperate under the first impressions of rage or terror. But with regard to a *general* state of things, growing out of events and causes already known in the gross, there is no piety in the fraud that covers its true nature; because nothing but erroneous resolutions can be the result of false representations. Those measures which in common distress might be available, in greater are no better than playing with the evil. That the effort may bear a proportion to the exigence, it is fit it should be known; known in its quality, in its extent, and in all the circumstances which attend it."
[*The Courier*,—*June* 27.

TALMA and MADEMOISELLE GEORGES.

The Opera House presented last evening one of the most interesting theatrical novelties that has ever been produced upon our stage—the finest scenes in the *chefs d'œuvre* of the French tragic drama, performed (not recited) by one of the first actresses and emphatically the first actor of France. Talma wields the tragic sceptre over the classical theatre of France, with the most absolute dominion; professional ambition, self-love, and emulation, bow before the supremacy of his genius.—But gallantry and the order of the performance oblige us to begin with the Lady.

Mademoiselle Georges made her *debut* in the first act of Racine's tragedy of *Phedra*. Every body knows *Phedra's* fatal and horror-striking passion for her husband's son *Hippolitus*. This is the subject of the tragedy. The French boast that Racine has had the art to strip the subject of all its odiousness, in the character of *Phedra*. Those who merely read the play will not be of this opinion; but those who see it acted by Madle. Georges will find it difficult to withhold their pity. The principal scene performed by her, was the discovery of her passion to her confidante *Œnone*. It is finely wrought, and may be considered a first-rate specimen of tragic eloquence. The disclosure of the object of her love towards the close of the scene is made with the greatest art.

PHED. Tu vas ouir le comble des horreurs
J'aime, &c. &c.
ŒNON. Qui?
PHED. Tu connais ce fils.
ŒNON. Hippolite, grand Dieux.
PHED. C'est toi qui l'a nomme.

This passage is one of the *triomphes* of Mademoiselle Georges with the greatest effect.

Talma appeared next in the character of *Manlius Capitolinus*. This tragedy bears a very close resemblance to *Venice Preserved*. It is even a palpable imitation in some parts, though Lafosse denies his having seen the English play. The scene played by Talma corresponds with that between *Pierre* and *Jaffier*: *Manlius*, like *Pierre*, reproaches the friend who has betrayed him to the Senate, lifts a dagger over him, but cannot strike, and both in the end precipitate themselves from the capitol, and perish.

The next selection was from Voltaire's tragedy of *Edipe*. The tale of complicated horrors associated with the names of *Œdipus* and *Jocasta* is unfit for detail.—Such a subject would not be tolerated one instant on our stage. Our moral taste is infinitely superior to that of the French. They may retort, that their critical taste, at least in tragedy, is superior to our's. Talma and Mademoiselle Georges played the scene in which all the guilt and wretchedness of their fate develope, and accumulate themselves upon the wretched pair; the acting was so powerful, so terrible, so indicative of something which put nature to the rack as to electrify the audience. Yet it surely must have been the pantomimic effect of their extraordinary powers, for an English audience understanding the language, instead of applauding, would have surely been frozen into motionless and silent horror.

The next selection was from Racine's *Andromaque*.—It is unnecessary to say that this is the original of the *Distressed Mother*, but it does not seem to be equally well known how wretchedly the translation fell off.—The simple pathos of Racine is mere creeping prose in Phillips. It is here, in *Oreste—furiis agitatus Orestes*—that Talma is perfect; an attempt to describe him were vain; his is not, in his madness, the disgustful horror of disease, painted with all the odiousness of truth, such as we encounter it in hospitals or in the streets. It is a sublime and pathetic mixture of phrenzy and inspiration. His madness is in his soul, not in the stiffening of his nerves, or the quivering of his lips. How fine is his transition from the sensibility that shakes his frame to tearless despair, and thence to delirium. Mad. Georges in *Hermione*, had the opportunity of displaying her powers, but not of representing the character in as pleasing a light as if she had gone through the entire. In the scenes she performed, one saw nothing but the vindictive fury of a jealous woman and her remorse. In her gestures and her attitudes, there is occasionally something too vehement and robust for our ideas of female acting. This however is not peculiar to Mademoiselle Georges: it is the manner of the French stage.

The whole of the performance went off very well. There was perhaps rather too much music. The concert room was completely filled; the Duke and Duchess of Gloucester, Duchess of York, and Duchess of Cumberland, were present. [*The Courier*,—*June* 20.

HOUSE OF COMMONS.—JUNE 11TH.

PRISONERS IN READING GAOL.

Lord FOLKSTONE, although he regretted extremely, bringing on the important question of which he had given notice in so thin a House, and more especially in the absence of those whose conduct he was about to arraign (Ministers were not in the House), yet as the time had arrived for public business, and as it was the uniform practice of these individuals to delay their attendance without consulting the convenience of that House, and as they knew his intention, he trusted he should be acquitted of unfairness in commencing the subject. He regretted also that the House was so thinly attended, because he deemed the question to be so serious, that its intrinsic importance ought to have secured the presence of a greater number of Members, however humble the individual by whom it was to be submitted to their consideration. The object of his motion was, to procure copies of all instructions emanating from the Office of the Secretary of State for the Home Department, relative to the custody of the different persons apprehended and confined under the late Act, by which such persons were taken out of the ordinary course of the law, and to the refusal of access to them by the Magistracy. The circumstances which called for such a motion were these:—Three persons had been committed to Reading Gaol under the Act to which he alluded; and he (Lord Folkstone) as a Magistrate for the county of Berks had been prevented by the Gaoler from exercising his privilege of visiting the prisoners. This was in violation of the Act of the 31st of the King, passed for the better prevention of abuses in gaols, by the 5th clause of which it was declared to be lawful for every Justice of Peace for the county, riding, or division, in which any gaol might be situated, although he had not been appointed one of the visiting Magistrates at the Quarter-Sessions, to enter and examine the same as often as he might think fit, and if he should discover any mismanagement, to make a communication thereof. This act, being still in force, it was

certainly most extraordinary that as a Magistrate for the County of Berks he had been prevented by the gaoler from holding any communication with the prisoners whom he had mentioned, on the authority of instructions issued by the Secretary of State. When the House considered, that in the Bill of Rights, drawn up by their ancestors for the security of their liberties and law, it was expressly declared that the Crown should not have the power of suspending or setting aside any of the laws of the realm, this denial must appear to be a gross violation of the Constitution. Were he to do no more than make this representation, he should think he had done enough to put Ministers on their defence, and to stimulate Parliament to institute a strict inquiry into the proceeding. But before he concluded, he thought it might be expedient to examine some of the pretences which he understood would be set up in defence of it. He understood it would be asserted that such had always been the practice with State prisoners, and that, when thus apprehended by a warrant under the Secretary of State, they were always kept in close confinement and access to them denied. If this practice should be supported by a reference to old precedents, he conceived that the Bill to which he had already alluded, and which was passed in 1791, empowering Magistrates to visit all gaols, would render such reference altogether nugatory. On former occasions too, State prisoners were committed to the Tower, which was a fortress, under military government, and to which no Justice of the Peace had a right of admission. But under the existing and recent suspensions of the Habeas Corpus Act, power was given to send the persons who might be apprehended to the county gaols. He understood it would also be contended, that what was done was done in virtue of the King's prerogative to make such regulations, and that that prerogative was not touched by the Act of the 31st of the King, inasmuch as the Crown was not named in the Act. There were many exceptions, however to the supposed rule, that unless the prerogative of the Crown was distinctly specified in an Act of Parliament, that prerogative was not affected by any of its provisions. He had stumbled on some cases in support of his assertion. Lord Hardwicke had stated that it was doubtful whether the prerogative was not affected by a positive statute in a case in which it had not been expressly named. Sir Edward Coke had declared that in divers cases the King was bound by Act of Parliament, although not expressly named. Lord Chief Justice Holt had pronounced, that although the Crown was not mentioned in the statute of the 5th of Elizabeth, refusing pardon to those who were convicted of perjury, the prerogative of granting pardon was bound by it. In Buller's Reports (excellent law authority) other cases in point would be found. He therefore maintained, that the Act of the 31st of the King, was affected by it; and that the order from the Secretary of State's Office was a gross violation of the Act, and a direct dispensing with the law of the land. This would be the case even if the prerogative of the Crown to make certain regulations of the kind in question extended to county gaols, which he did not believe. That they were all called the King's gaols he allowed; but this he apprehended referred only to the property in the building, and that the custody was exclusively in the Sheriff. In confirmation of this opinion, the Noble Lord cited several statutes of Henry III. Richard II. Henry VII. and the 39th and 40th of Elizabeth. It had also been adjudged that the office of Sheriff was entire, and could not be apportioned or divided, and that no right appertaining to his office could be abridged, notwithstanding any grant which might be made by the Crown to any other person. In fact, what power had the Secretary of State to enforce any such order as that which had been given? The jailor was not appointed by him; he did not receive his salary from him; he was not removable by him. True, in the case which he had described, the jailor had, prudently enough, perhaps, obeyed the instructions which he had received from the Secretary of State's Office, but that did not render them less illegal. He hoped, therefore, that the House would think this a subject of the most grave and serious consideration. It would be so at any time, but it was more especially so at a time when a system of espionage was introduced into the country. [Hear, hear, hear!] It was curious that that should be the moment selected by the Secretary of State for setting aside the provisions of an Act, which declared that the gaols should be open to the visits of the Magistracy. Ministers first shut up persons in gaols on the slightest pretences, as had been proved by the verdicts of Juries, and then prevented Magistrates from exercising their right of seeing if any abuses existed in the custody of such persons. One would suppose that it was thought that the existing Magistrates were not fit to be trusted in the presence of the prisoners. If so, why were they kept in the Commission of the Peace? The Crown had the power of removing them at its own discretion. It was of great importance that the Magistrates of the Country should not be placed in this degrading point of view; but it was of still greater importance that the rights of the people, as asserted in the Bill of Rights, should not be violated by a direct suspension of the law of the land. If the House granted the papers for which he was about to move (and he hoped they would do so), it was his intention to found on them some substantive proceeding. The Noble Lord then moved, that there be laid before the House copies of all instructions sent by or from the Office of the Secretary of State for the Home Department, to all gaolers and other persons, having in custody individuals detained under the provisions of an Act of the present Session, for enabling his Majesty to secure and detain persons suspected of conspiring against his person and government; as also copies of all letters, and answers to queries sent to Magistrates, respecting the custody and treatment of such persons.

The ATTORNEY-GENERAL commenced with saying, that the Noble Lord had stated a proposition which he was not at all inclined to deny, namely, that the King had no power to dispense with the laws. This was a principle settled at the Revolution, and expressly declared by the Bill of Rights. The Noble Lord, however, seemed to think that the regulations of which he complained had been now adopted by the Attorney-General for the first time. (Lord Folkstone said that this was no part of his argument.) He certainly understood that the Noble Lord's argument went that length—(*Cries of no, no, from the Opposition.*) The Noble Secretary of State for the Home Department had not done any thing on this occasion which had not been uniformly and constantly done for the custody of State Prisoners. The warrant for the apprehension of the parties, whether issued by the Secretary of State, or any other person, specified that they should be kept in close custody; and the law ordained that they should be kept in such custody, not only previous to their trials, but also during their trials. If the Noble Lord would take the trouble of examining the State Trials, he would find a vast variety of cases, both prior to and since the Revolution, when this doctrine was maintained by Judges who were as much friends to the liberty of the subject, according to the law of England, as the Noble Lord or any other man. Instances of the exercise of the power now complained of had been sanctioned by my Lord Holt, and also by Lord Chief Justice Pratt; by the latter particularly, in the case of Christopher Layer, Esq. who was tried in the King's Bench for high treason, Nov. 21, 1722, 9 Geo. I. Lord Chief Justice Pratt then made a rule that Mr. Layer's wife should be admitted into the prison, but all other persons were excluded, without an express order to the gaoler. Part of the Noble Lord's argument was that the Sheriff was to decide according to his discretion; but the fact really was, that the party who committed had always granted or refused permission to visit the prisoner. The Sheriff of the County was to keep the gaol; he was liable for the escape of the prisoner; and no other person had a right to be keeper of the county gaol but the Sheriff; but that did not decide the question in the slightest degree, that the persons committing had not a right to say that such or such persons should be either admitted or refused. The Sheriff's gaol, and every gaol in the kingdom, was the King's gaol. It was laid down by Lord Coke, and by almost every other writer, almost in these words—"The gaol is the King's, though the subject may have the custody of that gaol;" and certainly, the King had always through the medium of his Privy Council or Secretary of State, exercised the right of admitting or refusing persons to visit State prisoners.—The Noble Lord had cited several cases to show that particular acts bound the King, although he was not expressly named in them; but none of those cases had the slightest application to the subject. The Noble Lord thought, that in the case of perjury the King's prerogative of pardoning was taken away. That he denied. The Act of Parliament expressly stated, that no person convicted under that statute for perjury should be admitted to give evidence, unless the judgment was reversed; but it did not take away the King's power of pardon for perjury. With respect to the statute of the 31st of the King, when that act was passed, he would venture to say, that such a question as that which the Noble Lord had brought before the House was never in contemplation. That act was made for a very different purpose. The object of it principally was to enable magistrates to visit penitentiary houses, in which the parties were to be under a sort of domestic government, for keeping them in a state of constant employment. It certainly spoke also of county gaols. (*Hear, hear, hear! from the Opposition.*) The act directed that two justices might visit and inquire into the state of the prison; and the object of the act was not at all defeated by what was now contended for. Any magistrate might still go, might report abuses, or make his observations; but it was necessary for this purpose that he should have private communications with each of the prisoners. With respect to State crimes, in which the passions of men were always much engaged, it would be of the most dangerous consequence if every magistrate in the country might at all times converse with every prisoner, and that in private. Magistrates were but men; and every possibility of danger ought to be guarded against. Though the Noble Lord had assumed that the persons now confined had been taken up wantonly, there was no argument contained in such an assertion; and if there was, he (the Attorney-General) had an equal right to say, that none had been taken up but those who deserved it: but the Noble Lord had contended, but whatever was the case before 1791, the law had been altered since that time. If so, it was a little singular that this was the first time an objection had been raised to the exercise of this power by the Secretary of State, because it was clear, that, since 1791, in every suspension of the Habeas Corpus, similar orders were given at the discretion of the Secretary of State, as to every prisoner taken up under such suspension. But the Noble Lord's argument had nothing to do with the suspension of the Habeas Corpus in particular; for if a party taken up at a time when there was no such suspension might be visited at all times, he might also when that Act was suspended; & if he might be visited at all times, he might even when his trial was going on; and it was impossible to enumerate the mischiefs that might ensue if communications with the prisoner were allowed at such a period. He maintained, however, that the right to controul the access to a State prisoner was one of the prerogatives of the Crown, and had always been exercised by the Secretaries of State. It had been exercised before the Revolution, and since the Revolution up to the 31st of the King, without objection: and that Statute, he contended, did not in any way affect or alter this prerogative; for though that Statute gave the Magistrates a right to visit prisons, it said nothing about any communication with the prisoner. The clause, indeed, respecting the visiting Justies, was more explicit; but even that said not one word on the subject of communication with the prisoners. He did not mean to say that it might not be advisable or proper that on some occasions the Magistrates should see and converse with the prisoners; but he did say that, with respect to State prisoners, this power was controuled by the King's prerogative. When the Noble Lord spoke of the difference between State prisons and the sheriff's gaol, he prefectly agreed with him; and it seemed to be admitted that the Tower at least was a State prison, into which the Magistrates had not general power to enter; but he contended, that the placing State prisoners in any gaol made that gaol a State prison: he therefore maintained that the Secretary of State in issuing regulations for the ordering of State prisons, did not dispense with the law, but follow the law. No allegation of abuses committed had he heard so much as hinted against the Secretary of State. The powers he had exercised were warranted by law; and if any statement were made of wanton or excessive cruelty committed in the exercise of this power, that would afford a ground of inquiry into the conduct of the individuals guilty of such excesses. But the Noble Lord's motion went to insist on the power of every Magistrate to enter prisons at any time, and communicate with every prisoner. There was no foundation whatever for such an extensive power, and therefore he should oppose the motion.

Sir S. ROMILLY thought this question one of the most important that had come before the consideration of the House; and he had never heard a doctrine more dangerous, novel, or more destitute of all foundation, than that advanced by the Learned Gentleman. He thought it of little importance to inquire what was the power of the Crown, or what its prerogatives before 1791; the question now was, whether a Secretary of State could, without a violation of the law, prevent the Magistrates of a country from investigating the state of prisons within their jurisdiction. Whatever his Learned Friend might throw out, it was impossible a question of greater importance could be discussed in that House than this—Whether the prerogative of the Crown could not be taken away by an Act of Parliament, without express words contained in the Act for that purpose. His Learned Friend had said that it could not; and this was certainly true in some instances where civil rights were confirmed. The rule held good in the case of limitations, and in the case of the Bankrupt laws, which did not affect the King's right of recovering his debt, and perhaps ought not; but was it ever held, that in Acts of general regulation, Acts which went to check abuses, and protect the rights of the subject, the power of the Crown could not be taken away by any thing short of express words. —(*Loud cheers.*) There was no doubt that the prerogative might be taken away by such Acts, without any express words for the purpose. The very case had often been decided. In the great case of Magdalen-college (in Lord Coke's Reports) the question was, whether the statutes preventing ecclesiastical bodies from alienating their property extended to the King as well as all others, there being no express words in the statutes to that effect. Magdalen College had made a grant to Queen Elizabeth: and the point was, whether this grant being made to the Queen, was within the provisions of those statutes. The Judges unanimously resolved that the Crown was not excepted out of general statutes passed for the protection of the subject, or the redress of wrong. (Hear, hear). Now he would ask, whether the statute passed in 1791, was not a general statute, passed for the protection of the subject, and the redressing of wrongs? (hear, hear). There was no decision, no diction of any judge, no authority of any kind to be found in any of the books, which asserted that the King was not bound by acts of general regulation. His Learned Friend had said the Crown could not dispense with law: but what had the Secretary of State done? The Act of 1791 says that the magistrates shall visit the prisons within their respective jurisdictions; but the Secretary of State gives orders to the gaoler not to open particular cells. Surely his Learned Friend would not say that since the Bill of Rights the King could dispense with the laws of the realm. If the Magistrates were to discharge a duty in visiting prisons, to prevent the abuses of gaoler, would his Learned Friend say, that they were not to see the prisoners in their dungeons? How could they perform this duty but by seeing and communicating with the prisoners? Could they learn or repress the abuses of the gaoler by making inquiries of the gaoler himself? It would be seen in a moment that this was the very reverse of what the Legislature intended, if we only considered the circumstances that led to the framing of the Act. The Act was passed on the representation of improper conduct in various prisons; and he could say that a vigilant eye ought always to be kept up towards them, because no where were abuses so likely to arise. The Act was passed to remedy and prevent these abuses; and with that view, the Magistrates, were ordered to visit the prisons, and report the state of them. But to what purpose would it be to visit the prisons, unless they saw and communicated with the prisoners? Towards whom besides could abuses exist or who could else give any information of them? His Learned Friend had said that when the Act passed no such cases as these were in contemplation; but that was not the question; it was not what was in contemplation, but what was done and what was law. If any thing wrong had been enacted that might be amended in a new Act; but till such new Act passed, we must take the law as we found it. As the Act now stood, it was a direct forbiddal of every thing that had been done by the Secretary of State; he had assumed an authority which he did not possess, and had dispensed with the existing law of the realm. He (Sir S. R) should be indeed surprized if any lawyer could show him in any books any authority for such a doctrine as that which had that night been held out by his Learned Friend. That doctrine would set the Crown above the whole law; it ought not to rest on the support of his Learned Friend alone, but unless some authority was adduced, should be at once discarded by the House.

The SOLICITOR GENERAL stated his concurrence in the assertion of the Attorney-General, that the right of the Crown to regulate the treatment of State prisoners was not taken away by the Act of 1791. The Noble Lord admitted that he had found it laid down, that the gaols were the King's; would he say that this expression applied to the four walls only? It could not be; for in many cases the prison was private property, and did not belong to the King. The expression must mean that the custody of them belonged to the King. His Learned Friend had not attempted to impugn the doctrine, that anterior to 1791 this prerogative had been exercised without opposition; and surely he would not maintain that during his trial a prisoner might be visited and interrogated by every Magistrate that chose to enter the prison. It had never been maintained that Magistrates could have such a power before the Act of 1791; and if they had not before, we ought to see what were the intentions of that Act. It applied to penitentiary houses; and though he would not say that gaols were not included, yet the Act was chiefly meant for the regulation of penitentiaries. In order to prevent abuses in the prisons, the Magistrates were enabled to enter; but was it intended that any Magistrate should communicate when he pleased with any prisoner? Without producing any authority, he ventured, with all defference, to say, that the prerogative of the Crown was not taken away by the Act of 1791. The Learned Gentleman then went on to insist on the inconvenience that would ensue, if ten, twenty, or even fifty Magistrates should choose to communicate with the prisoner at once, and interrogate him in what manner they pleased, perhaps at the very time of his trial; and this inconvenience, he urged, might occur, if the arguments used on the other side were well founded.

Mr. BROUGHAM said, that all he had heard from his Honourable and Learned Friend opposite, had merely served to confirm him in the opinion which he formed of this case when it first came before the House. He would take upon him to say, that a more feeble defence than that which was now set up in this case had never been heard within the walls of that House. (*Hear, hear.*) He spoke without the slightest disrespect personally to his Honourable and Learned Friends. It was the fault of the case, and not theirs; and all their talents, learning, and skill had been utterly unable to give even a colour of justification to it. The Learned Gentleman (the Solicitor General) assumed that his Learned Friend (Sir S. Romilly) had admitted that before 1791, solitary confinement made part of the law of England, and that as rigorous as the crown pleased. Good God! was this the law of England? Who ever thought of giving the crown the power in all the details of torturing prisoners in this manner? His Learned Friend had not thought proper to enter into any inquiry respecting the law prior to 1791, because the Act of 1791 expressly empowered justices to visit prisons, and to inquire into the abuses in them! Here was a specific statute calling on Magistrates to visit all gaols; and the question was, whether in the teeth of that statute the King's Minister could issue an arbitrary mandate and say that certain prisoners should not be visited? It was said that the purview of the Act was the regulation of Penitentiary Houses; and so in truth it was in the first four sections. But in the fifth section it was expressly said "and for the better preventing all abuses as well in common Gaols as in Houses of correction" (*Hear, hear.*) And Magistrates were expressly authorised to examine into the treatment and conduct of prisoners, at such time or times as they might think fit, and to report concerning the same. Now could this examination be carried on, if the right of examination should be confined to the mere walls and earth of the prison? How could they report respecting the treatment of the prisoners, by only looking to the walls on the one side of the prison, and the floors below and ceiling above them. The Act could mean but one thing, the power to examine the prisoners themselves, and to ask them questions respecting their treatment. The section in question could have no earthly meaning, if it did not oust that power of the prerogative which was in this case claimed, and authorise Magistrates to examine into all prisons and inquire into all abuses. But in what statute, he would ask, were state Prisoners mentioned? What book of law, what dictum, divided state Prisoners from other prisoners?—(*Hear, hear!*) All prisoners where the King's prisoners, and without his authority it was impossible they could be committed and brought to trial. And it was as illegal as it was a mockery of common sense, therefore, to distinguish two sorts of prisoners, and to say common prisoners, and state prisoners. It had been said, the Crown had a peculiar interest in the prosecution of state prisoners; but was not the Crown as much interested in the prosecution of theft, murder, and robbery, as of sedition. This was the first time, he believed, that two lawyers had got up and stated what was as repugnant to common sense and justice as it was repugnant to all analogies of the law, and as it was unkown in all the courts of this country. It had been said there would be a great inconvenience if all Magistrates could go into prisons and hold communications with state Prisoners. But he would say, that if a Magistrate did that which was improper, he was amenable to the proper authority—if he abused his trust, he might be removed from the Commission, and further steps might be taken against him. But then it was said it would be attended with another consequence—prisoners might be examined not only before trial, but even pending trial: and his Learned Friends from their experience, appeared to consider State Trials as necessarily a thing of very long endurance. But this was one of the very worst practices which could possibly take place. God forbid; that when we talk of State Trials, we should think of an exception from a proper regulation from what had happened in the late long continued State Trials. They had seen, when lately arraigned for high treason, a list of 240 witnesses furnished to them. To be charged with treason was sufficient to harass and bewilder the mind of itself; but what could be compared to the being kept day after day in suspense till the close of a bungling prosecution? (Hear, hear!)—His Learned Friends were not to blame for this—the preparations for the trial were beyond their department. The whole of these proceedings for treason gave rise to nothing but feelings of disgust; they vilified that which was never before considered but with feelings of veneration. God forbid that we should again, from the long continuance of these trials, give an arbitrary power to the Secretary of State, merely to serve the purposes of party.

Lord CASTLEREAGH observed, that no suggestion had been thrown out that any of the prisoners were suffering under any cruelty or hardship; no allegation had been made that there was any abusive or novel exercise of the powers vested in the Secretary of State for the management of State Prisoners. The only suggestion had been that the Act of 1791 had altered the general criminal law of the country; a law that had always been recognized by the most constitutional lawyers that ever sat on the bench. He spoke with great diffidence on legal questions; but he maintained, that the warrant of the Secretary of State in these cases was legal and proper, and that all these arguments, from the state of the times, did not affect the question. (*Hear, hear, from the Opposition.*) Indeed, Gentlemen on the other side seemed to take delight in the times, (*vehement cries of hear*) to make war on his Majesty's Ministers at the expense of the safety of the country. He apprehended the power of committing for high treason was not confined to the Secretary of State: any Magistrate on proper grounds might do the same; and if they committed a party to close and safe custody, the gaoler was bound to obey; and he contended that there was a distinction between the custody of State prisoners and prisoners for other offences, however the learned gentleman had seemed to philosophize on the subject. Down to the year 1791 there was not one act or decision on which the complaint could be founded. The act of 1791 was the only peg on which they could hang an argument. If, however, that act gave such a power to magistrates, how came the warrant of committal not to be changed? State prisoners were committed to the Tower, and it could never be pretended that the Tower was a common gaol, or subject to the regulations of common gaols. It was a garrison, and not a gaol. The question was, whether, when the warrant committed the prisoners for safe and close custody, the magistrates were not precluded from visiting them. In this view of the question it could not be received; there was no charge against the Secretary of State. It was abuses in the interior administration of prisons, and not oppressive treatment of the prisoners, that formed the subject of question. He went along with the Hon. and Learned Gentleman in making a difference between magistrates and other individuals; but paying all deference as he did to the character of magistrates, and believing that no individuals could be more safely trusted with such power than the present magistrates, yet possessing no assurance of what magistrates might be disposed to do in future times, he could not assume that their future character would be such as to entitle the House to break down such a principle as the one in question. If the magistrates in Berkshire have been obstructed in the discharge of their duty, this House was not the proper place for complaint; the Courts below should be applied to; and could it be said, that a magistrate applying there, with the assistance of the Hon. and Learned Gentleman, would not readily obtain a decision on the subject? There let the matter be put to issue, and the question set at rest; but the House would not, in opposition to the known principles of law & justice, go out of their way to decide a question of construction. This was a question of law, and a question of law only, and the House could not therefore, suffer it to be brought into its jurisdiction. An unfair occasion was taken by the Hon. and Learned Gentleman, as he had often done on other occasions, to produce a false impression on the public mind, as to the late transactions (the trials for treason) in the Court below. He would throw no imputation upon the fairness and justice of the decision; but were the proceedings to be called bungling, (hear, hear, from the Opposition) because the prisoners were acquitted? He lamented that the trials lasted so long, but that was not a charge against Government in the circumstances of the case; it arose from the nature of the charge extending over so many matters of evidence, and was more for the benefit of the prisoners than from any other consideration. It was not against the excellent and revered administration of justice that the Hon. Gentleman spoke, but to impute blame to his Majesty's Ministers; it was one of those unfair attacks of the Hon. and Learned Gentleman which he (the Noble Lord) trusted would produce as little impression abroad as he had reason to believe it had produ-

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[redacted]ouse.—(Loud cheering from the [redacted]n.)

Lord A. HAMILTON said, no one had denied or could deny that abuses might take place as to prisoners committed by the Secretary of State's warrant. What then was his remedy, when such abuses were committed? The prisoner was deprived of his remedy by Habeas Corpus—by the Act which was passed. If this power on the part of the Magistrates was taken away, what possible remedy could he have? He might be transferred from jail to jail round the kingdom. It was said no abuse had been alleged. How could any abuse be alleged, if no communication with the prisoner were allowed? The censure which the Honourable and Learned Gentleman (Mr. Brougham) had applied to the State prosecutions might be extended to a neighbouring country, Scotland—where a man had been tried twice for one offence, and was now to be tried a third time. He hoped, if the motion were rejected, it would at least operate as a warning to the House against consenting to pass a measure which gave rise to such practices on the part of the Secretary of State.

Mr. WYNN said, that he came into the House undecided upon this subject. He had thought the explicit words of the Act were not to be controlled, but he had suspended an absolute judgment. He had heard nothing which had shaken the words of the Act. There might be inconveniences attached to the execution of that law. It did not affect the prerogative in that direct way, which could make it necessary to introduce specific words into the Act, respecting that prerogative. If it had generally taken the control of State Prisoners out of the hands of the Crown, it could not have been effectual without a distinct reference to the prerogative, but an allowance to the Magistrates to visit prisoners, could not be considered as an encroachment on the prerogative. He should therefore support the motion.

For the motion	-	56
Against it	-	85
Majority		29.

30TH JUNE.

IRISH GRAND JURIES.

The Order of the Day being read for the further consideration of the Grand Jury Presentment Bill,

Sir F. FLOOD said, that he could consider the measure in no other light than that of a bill of indictment against the Grand Juries of Ireland, who were the representatives of the property of the country, and who, since the 36th of the King, had performed the duties which that Act imposed on them very honestly and fairly. The measure would take the business of presentments out of the hands of the Grand Juries, and give it to five Magistrates; the Juries would have nothing to do but to reject or approve their presentments. The Bill also created 36 new Officers, who would altogether have salaries amounting to 16,000*l.* a year, in the gift of the Government, a step peculiarly objectionable at this time of retrenchment; it was, in his opinion, an extravagant and insulting measure.

[A Message from the Lords informed the House that the Lords had agreed to the amendment on the Habeas Corpus Suspension Bill. The debate was resumed].

After a few words from Mr. V. FITZGERALD,

Mr. ABERCROMBY said he should give the Bill his hearty consent. An entire change in the system of Grand Jury Presentments in Ireland, was necessary, to put an end to the multiplication of oaths which led to the commission of perjury, and to the system of jobbing which prevailed on Grand Juries. The measure, by striking at the root of this system, would increase the respectability of these bodies. Under the present method of proceeding, the number of presentments to the Grand Juries was so great that it was impossible that they could be properly attended to. In proof of this assertion, he read extracts from the evidence of Mr. V. Fitzgerald, taken before the Committee on this subject, by which it appeared, that at the Assizes of the County of Tipperary, the number of presentments was such, that the Grand Jury could have allowed only two minutes to the consideration of each, if they had sat 13 hours every day, and attended to no other business. A preliminary investigation, as directed by the Bill, would put an end to this inconvenience. The measure would also increase the respectability of the Quarter Sessions, and cause the Magistrates to attend to the business there, which was now left to the Assistant Barristers. From the number of presentments which had been before alluded to, the business was deferred to so late an hour on the last day of the Assizes, that it was impossible for those who wished to traverse to do so. As to the new officers who were to be appointed (County Surveyors), he was hardly competent to say whether they were necessary, or whether their business might not be done by the Magistrates; on that subject he should be willing to hear what could be said in a Committee.

Sir G. HILL opposed the Bill. The system of Grand Jury presentments had wonderfully improved the face of the country, and therefore he could not assent to the total repeal of that system, which the measure under consideration proposed. But to this measure he was adverse upon various grounds. It originated in a gross calumny upon the gentry of Ireland, who were charged with perverting Grand Jury presentments to the purpose of jobbing and corruption. But what was adduced in support of this extraordinary charge? Why, that before the Committees appointed to inquire into this subject, evidence was examined only with respect to Grand Jury presentments in sixteen counties out of the thirty-two of which Ireland consisted, and the evidence from eleven of those counties was decidedly against the calumny to which he referred. This measure, therefore, formed a bill of indictment against the gentry of all the counties in Ireland, of these counties being condemned unheard, and without any evidence, while it were condemned decidedly against the evidence adduced. Such a mode of proceeding he could not help thinking exceedingly objectionable. He also objected to the introduction of the Nobility and Clergy into the concerns of Grand Jury Presentments, but especially to the interference of the Clergy, who were too likely, through such interference, to be embroiled in ligitation with their neighbours, with whom it was the interest of the Church, as he knew it was the disposition of the Clergy themselves, to cultivate an amicable and harmonious connexion.

[Here the Right Hon. Baronet was interrupted by a Message from the Lords, requiring the attendance of the House in their Lordships' House, in order to hear the Royal Assent given by Commission to certain Public and Private Bills. The Speaker, followed by several of the Members, accordingly proceeded to the Lords, and on his return announced, that the Royal Assent had been given to the Bill for suspending the Habeas Corpus Act, with other Bills—for Report of which see the Lords.]

Sir G. HILL concluded his observations upon the Bill before the House by proposing an amendment, that the further consideration of the Report should be postponed until this day three months.

Mr. PEEL expressed an entire dissent from the grounds stated by his Right Honourable Friend, and a strong objection to the proposition of postponement. It would, indeed, in his view, be infinitely better to reject the measure altogether, than to hold out delusive hopes to Ireland by the formal adjournment of its consideration to another Session. But what could be the reason for such adjournment? For the House must be fully prepared to decide upon the merits of this question from the Reports of the Committees appointed in 1815 and 1816, and from the frequent discussions which had taken place upon the subject. Why then postpone the decision by adopting the motion of his Right Hon. Friend, for that adoption would in effect be an abandonment of the measure altogether? The objections of his Right Honourable Friend to the powers which this Bill proposed to confer upon the Nobility and Clergy of Ireland were, in his opinion, quite untenable. For what could be more reasonable than that Clergymen, being Magistrates, and having property, should, as well as the Irish Nobility, who had so large a stake in the country, have a right to interpose upon the subject of presentments for public works. The Irish Nobility, indeed, who were not among the Representatives of the Peerage of Ireland in the Imperial Parliament, or who had no seat in the House of Commons, were, in his opinion, rather hardly dealt with. If an Irish Nobleman had a seat in the House of Commons, he was, according to a late decision of the twelve Judges in Ireland, subject to all the obligations, and entitled to all the privileges of a Commoner. Therefore such a Nobleman was held eligible to sit upon a Grand Jury. But the Irish Nobleman who had no seat in the House of Commons, had no such privilege, and therefore he was excluded from the Grand Jury, as well as from that degree of interference with regard to public works and Grand Jury presentments which the present measure proposed to grant. As to his Right Honourable Friend's suggestion, that the consideration of presentments should rather take place at the Summer than at the Spring Assizes, he (Mr. P.) had no objection to accede to it, because a greater proportion of the Irish landlords were likely to be present at the one Assizes than at the other.—With respect to the objection of his Right Honourable Friend, that the Bill went to transfer the whole province of the Grand Juries to the Magistracy, he would observe, that no other power would be given to the Magistrates than that of previous inquiry. They were to possess no negative upon any presentment, but merely to accompany it with their opinion, upon which the Grand Jury would act according to its judgment. It was as absurd to contend, that the mere expression of that opinion was obligatory upon the Grand Jury, as it would be to say that the decisions of that House were fettered by the opinion of a Committee above stairs. In the latter case, some attention was usually paid to the recommendations of a Committee, but those recompendations in no ways interfered with the liberative functions of Parliament; and, in an analogous manner, the opinions of the Magistrates might be expected to operate upon the Grand Juries. He should cordially support the Bill of his Right Hon. Friend, because he was convinced it was calculated to do much good; and being so, rather than postpone the measure, he should prefer seeing it rejected altogether.

Mr. PONSONBY spoke in favour of the Bill, with the exception of one part, with respect to which he had great doubts; he meant the appointment of County Surveyors. He should be sorry to see that enactment pass nakedly, in its present form, without some guards and precautions. He was afraid, if they were omitted the office would grow up to a formidable character, and become an instrument for political purposes. For that reason, he thought it would be better to pass the Bill without it.

Sir N. COLTHURST spoke in favour of the Bill.

Mr. V. FITZGERALD vindicated the general principle of the Bill, as calculated to do infinite good to Ireland; more good, he was persuaded, than any measure that had been adopted since the Union. He should be prepared, on the third reading, with a clause to qualify the oath to be taken by Grand Jurors. He regretted the opposition of the Right Honourable Gentleman (Mr. Ponsonby) to the proposed appointment of County Surveyors; but, for his own part, he felt assured it never could degenerate into a political job.

Sir H. PARNELL said it was highly necessary there should be some public officer, whose duty it should be to take care that the money levied by the Grand Jury was properly and beneficially expended. The measure, whether bad or good, did not originate with the Honourable Gentleman opposite, but in another quarter. He agreed with the Right Honourable Gentleman in thinking that it was not likely the appointment would ever degenerate into a political job. The Bill was a most important one with respect to the good it would do in Ireland, and he was quite sure if it did not pass this Session, they would have numerous petitions presented next Session, complaining of the evils of the present system.

Mr. DALY suggested the propriety of recommitting the Bill.

Mr. V. FIZGERALD said, he had no objection to a recommitment of the Bill, upon a fair understanding that it should be only for the purpose of introducing certain amendments, and not for discussing the principle of the measure; because, at this late period of the Session, if any obstruction was interposed it might be fatal to the passing of it.

Sir S. ROMILLY observed, that understanding from many Honourable Gentlemen who were better able to form a correct opinion upon the subject than he could do, that the measure was one likely to be productive of infinite good to Ireland, he should persuade the Right Hon. Gentleman not to yield to any suggestion for delaying its progress. Any alterations which were thought necessary could be proposed upon the third reading.

Mr. COURTENAY hoped no advice would be listened to which might, by possibility, risk the passing of the Bill during the present Session, but that the Right Hon. Gentleman would press it through the present stage.

After some further discussion it was at length agreed, that the Bill should be re-committed on Wednesday, the Report to be received on the same evening, and the third reading to take place on Thursday. [*The Courier,—July* 1.

PROTEST.

DISSENTIENT, Die Martis, 3° Junij, 1817.

1st. Because it was acknowledged in debate, that in the Correspondence moved for, his Majesty's Secretary of State refused permission to certain Justices of the Peace for the County of Berks to * *to visit the State Prisoners confined in the Gaol of Reading, to ask questions of them, or to enter into conversation with them*; and it is expressly enacted in the fifth Section of an † Act of the 31st of the present King, intitled, 'An Act for the better regulating of County Gaols and other Places of Confinement,' "that certain Justices of the Peace appointed by the General or Quarter Sessions shall (either together or singly) personally visit and inspect both the Common Gaols and other the Houses of Correction or other places of confinement, at least three times in each quarter of the year, and oftener if occasion shall require, and shall examine into the state of the buildings, and the behaviour and conduct of the respective officers, and the treatment and condition of the prisoners; and furthermore shall at any General or Quarter Sessions make a Report in writing of the state and condition of the same, and of all abuses which may occur to their observation; and the Chairman of the said Sessions is hereby required to call upon the said visitors for such Report;" it is moreover in the same section expressly declared, that "it shall be lawful for every Justice of the Peace for such County, Riding, or Division of his own accord, and without being appointed a visitor, to enter into and examine the same at such time or times, and as often as he shall think fit, and if he shall discover any abuses therein he is required to report them in writing at the next General or Quarter Sessions of the Peace.

We could not reconcile it to our duty to reject all further inquiry into the violation of a statute neither obsolete nor ambiguous, and when we adverted to the form whence such disobedience to the law had originated, we deemed ourselves called upon to protect one of the most essential rights of the people, vindicated at the Revolution of 1688, and asserted in the Act of the 1st of William and Mary, namely, "I. That the pretended power of suspending laws, or the execution of laws, by Regal authority, without consent of Parliament, is illegal.—2. That the pretended power of dispensing with the laws, or the execution of laws, by Regal authority, as it hath been assumed and exercised of late, is illegal."

Secondly, Because the argument urged in debate, that the Prerogative of the Crown extends to the regulation of all his Majesty's gaols, and that consequently no Act of Parliament relating to them can, without reciting the previous consent of the Crown, be imperative against the mandates of a Secretary of State, appears to us unfounded in principle, inconclusive in its application, and highly dangerous in its consequences.

A prerogative, however undisputed, cannot, we presume, counteract the force af an Act of Parliament, sanctioned by the three branches of the Legislature, and consequently consented to by the Crown.

The Justices authorized by the 31st of the King to visit the Common Gaols of their respective counties, do not, by complying with the Act, alter any regulations made by his Majesty; they act under his commission; they are removable at will, and they are permitted, and in some cases required, to enforce the regulations for gaols, issuing either from the Crown in virtue of its prerogative, or from any other lawful authority. The provisions, therefore, of the 31st of the King, cannot interfere with the prerogative of the Crown, to whatever extent that prerogative may be supposed to exist.

If the claim of unlimited prerogative is to be set up in all Institutions, which, in the language of the law, belong to the King, and if the laws of the land, after passing the two Houses of Parliament, and receiving the Royal Assent, have no power to limit that prerogative, then in all things relating to the army, the Navy and the Courts of Justice, the dispensing power which our ancestors struggled to extinguish, is revived, and the securities devised for our property, our liberties, and our lives by the wisdom of Parliament exist only at the mercy of the Advisers of the Crown—a system which would substitute arbitrary will for positive law, convert Parliament itself into an useless appendage of a Court, and our free Constitution into an absolute Government dependent on the caprice of a Monarch and his Advisers.

Thirdly, Because the law does not enact, nor does reason require any difference of treatment between State Prisoners and other Prisoners committed to a Common Gaol; and should the exigencies of the State require such difference to be made, the Secretary of State has it in his power to commit *in the first instance*, or afterwards to convey such Prisoners to fortresses and other places of confinement more immediately under the direction of the advisers of the Crown, and not, as we apprehend, included in the provisions of the 31st of the King.

Fourthly. Because no practice previous to the passing of the Act, and none subsequent to it (if any such were pretended), can justify his Majesty's Secretary of State in departing so entirely from its spirit and its letter, as to prevent the Magistrates from executing duties plainly enjoined, and from exerting powers without any reserve or exception conferred upon them by an Act of Parliament, clear in its construction and consistent in its provisions: and when this branch of the Legislature has so recently been called upon to concur in the temporary suspension of the most valuable laws of the land, we felt it more imperiously our bounden duty to watch over the statutes which are still permitted to exist, and to enforce an obedience to the remaining laws in those who are entrusted with the execution of them, and already invested with powers so extraordinary and so liable to abuse. ROSSLYN.
LAUDERDALE.
MONTFORT.
VASSALL HOLLAND.

* See printed queries and answers.

† C. 46.

THE PRINCE REGENT'S LEVEE.

Yesterday the PRINCE REGENT held a Levee at Carlton House.

A guard of honour, under the command of Colonel Bowater, marched into the Court Yard at one o'clock, preceded by the band of the Duke of Gloucester's 3d Regiment of Foot Guards. There was also a detachment of the Life Guards stationed in Pall Mall, to assist the Police.

Previous to the Levee his Royal Highness held a Privy Council, which was attended by the Lord President of the Council, the Lord Privy Seal, the First Lord of the Treasury, the Chancellor of the Exchequer, the Secretaries of State for the Home and Foreign Departments, the Master-General of the Ordnance, the Master of the Mint, the President of the Board of Control, the Lord Chamberlain, the Lord Steward, the Comptroller of the Household, the Treasurer of the Household, the Master of the Horse, &c. &c.

The Earl of Harrowby had an audience of the Prince Regent, and also Viscount Strangford, presented by Viscount Castlereagh, upon his going to Sweden.

There were present at the Levee their Royal Highnesses the Dukes of York and Gloucester, Prince Esterhazy, the Archbishop of Canterbury, the Lord Chief Justice of the Court of King's Bench, the Judge of the Admiralty, the Solicitor-General, the Groom of the Stole, Earl of Harrington (Gold Stick in Waiting), Mr. Harrison, Solicitor-General to the Duchy of Cornwall, &c.

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There were also present at the Levee—

DUKES—Leeds, Beaufort, D. Chatre, Montrose, Rutland.

MARQUISSES—Winchester, Conyngham, Cholmondeley, Headfort, Cornwallis, Tavistock, Lansdown, Camden, Herffort.

EARLS—Ancram, Hardwicke, Mount Edgcumbe, Mexborough, St Germans, Athlone, Gower, Warwick, Suffield, Orford, Delawar, Paulett, Westmorland, Westmeath, Macclesfield, Rocksavage, Ossory, Egremont, Blessington, Mulgrave, Liverpool, Harrowby, Harrington.

VISCOUNTS—Falmouth, Exmouth, Barnard, Valletort, Galway, Melville, Castlereagh, Sidmouth, Strangford, Chetwynd, Lake, Page.

LORDS - Rivers, Massey, J. C. Stuart, Dynevor, C. Townshend, Teignmouth, Henniker, Binning, Burghersh, Lynedoch, Arden, Boston, St. Helens, J. Thynne, Ellenborough, Harris, Colchester, C. Bentink, G. Beresford, Rouse, C. Spencer.

RIGHT HONOURABLES- J. M'Mahon, Sir H. Russell, G. Canning, N. Vansittart, Wellesley Pole, C. Arbuthnot, W. Scott, F. Robinson.

HONOURABLES—Mr. Shore, Mr. Petre, C. Percy, W. E. Cochrane.

BISHOPS - Peterborough, Exeter. London.

SIRS—B. Bloomfield, G. Naylor, Rose Price, R. Kennedy, Lewis Maellet, Coghill Coghill, A. Chichester, G. B. Hill, H. St. Paul, J. Simeon, J. C. Hippisley, J. C. Lillie, G. Warrender, G. Staunton, M. Somerville, T. Lavie, F. Henniker, H Rivers, R. H. Bromley, J. Ramsden, P. C Durham, C. Hastings, J. Hamilton, J. Doyle, J. Murray, C. Green, C. Imhoff, A. Hume, C. Campbell, C. Hawkins, W. Gomm, W. Scott, C. Blunt, E. Paget, H. Seton, J. Clarke, R. Steele.

ADMIRALS—Bowater, Griffith.

GENERALS—Sir Robert Kemys, Sir J. Doyle, Orr. Fitzgerald, Sir John Hamilton, Aylmer, Hart, Michel, Sir C. Hastings, Sir John Murray, Marriott, Sir Charles Green, Macleod, Henry Johnson, Deewar, Fitzroy, Maclean, Huguein, Stevens, Vyse.

COLONELS—Higgins, Ellice, Hon. Lowther, Hon. Coote, Sir Colin Campbell, Colston, Hughes, T. E. Napier, Llewellyn, C. B.; Vernon Graham, Wodehouse, Macleod, Lyster, Pigot, Lygon, Sir Wm. Gomm, Cook, Sir J. Clarke, Sir R. Steele.

MAJORS—Maurraige, Hon. W. E. Cochrane, Macleod, Maberly, Thoyts, Bloomfield.

CAPTAINS—Sir R. H. Bromley, Edgecombe, Hon. Pellew, Christie, Sullivan, Hon. P T. Cust, Gray, Hon A. Cochrane, Webber, Rous, King, Shawe, Pearson, Pigot, Hickney, R. N. Curzon, Jackson, D'Este, Dracon, S. Price, Dawkins, Rattrey, Gronow, Deacon, Burdett.

LIEUTENANTS—Scott, Haring, H. P. Steele, R. N., Heathcote, C. Fitzroy Maclean, Fitzroy, Douglas.

CORNETS—Lyster, Trent, Harrison, R. Burdett, Ellis, Arnold.

AMBASSADORS—Austrian, American, Saxon, Dutch, French, Russian, Spanish, Baron Pfeilzer, Wolfe.

DOCTORS—Highmore, Paris, Rev Dr. Fletcher.

REV. MESSRS.—W. Westcomb, Algernon, Peyton, Robert Lowth.

MESSRS.—Adam, Smith, Leach, Hugh Hope, R. Coates, Otway, Hoseason, Harrison, Spiridan Foresti, T. P. Williams, Jas. Morier, Sawbridge, Stewart, Harbord, Frere, Norton, Lacon, Bayly, Drax Grosvenor, Caswall, Temple, Phelps, Smith, Stuart, Hall, Leigh, Pusey Edwards, G N. Caswall, William Arundel Harris, Cowper Hincks, Robert Coates, Smythe Owen, Buller, Bacon, H. Walpole, Thornton, Trmayne, Hope, Davies Gilbert, H. Butler, Isted, R. B. Cox, R. Ward, Lysons, Beckett.

Among the presentations to the PRINCE were—

Mr. Hugh Hope, upon his return from Java.

Colonel Colston, upon his return from Rome.

Mr. Spiridan Foresti, late his Majesty's Resident and Minister in the Ionian Islands upon which occasion he received the honor of Knighthood.

Lieutenant-Colonel Lewellyn, C. B. 25th Regiment, upon his receiving the Order of the Companion of the Bath, and on his return from Waterloo.

Captain Christie, of the Hants Yeomanry Legion.

Lord Massey, by the Marquis of Conyngham.

Sir Coghill Coghill, on changing his name and coming to his title.

Lieut.-Colonel Ellice, of the Inniskilling Dragoons.

Capt. Sullivan, of the Royal Horse Guards, on his marriage.

Sir Robert Kennedy, upon his return from Lisbon.

Capt. Pellew, on his return from abroad.

Sir John Scott Lillie, 60th Regiment, on his promotion.

Mr. G. N. Caswall, by his Father.

Lieut. Heathcote, of the Royal Horse Guards.

Sir. F. Hamilton, on coming to his title.

Lieut. Fitzroy, Royal Horse Guards.

Lord J. C. Stuart, on coming to his title, by the Earl of Hardwicke.

Lord Suffield, with the Norfolk Address.

Viscount Barnard, on his appointment to the 2d Life Guards.

Viscount Falmouth, with the Cornwall Address.

Earl Gower, on his return from abroad.

Sir George Staunton, on his return from China.

Mr. Shore, on coming of age, by Lord Teignmouth.

Cornet Lyster, 7th Hussars, by Col. Lyster.

Cornet Ellis, on his appointment to the Lancers.

Lieutenant Douglas, Royal Horse Artillery.

Major-Gen. Henry Macleod, 35th Regiment, on promotion.

Hon. Lieut.-Col. Cooke, on his promotion to the Lieut. Colonelcy of the Queen's County Militia, by Marquis of Cunningham.

Lieut.-Col Macleod, Royal Engineers, on promotion.

Major Maurraige, 60th Regiment, on return from the West Indies.

Lieut.-Col. Hughes, 18th Hussars, on promotion.

Edward Wodehouse, Esq. by Colonel Wodehouse.

Lieut.-Colonel T. E. Napier, on promotion.

Major-General Deevar, by Colonel Fitzgerald.

Lieut-Gen. Sir John Murray, on returning from the Continent.

Rev. William Wescomb, on going abroad.

Rear Admiral Griffiths, on his return from North America.

Mr. P. Edwards, on going abroad, by Major-Gen. Fitzgerald.

J. Otway, on coming of age, by Lord Delawarre.

Mr. Frere, on his marriage.

Mr. T. P. Williams, on going abroad.

W. A. Harris, High Sheriff of Cornwall, with the County Address, presented by the Earl of Mount Edgcumbe.

Mr. Phelps, on his marriage, by Lord Burghersh.

Rear-Admiral Sir P. C. Durham, on receiving permission to accept and wear De Ordre du Merite Militaire de France.

Lieut.-Col. Colston, on return from the Continent.

Lieut.-Col. Vernon Graham, 2d or Queen's Royal Regt. on his arrival from the West Indies.

Cornet Trent, Royal Horse Guards, by the Lord in Waiting.

Capt. Shawe, Royal Horse Guards, by ditto.

Mr. D. Gilbert, on his change of name, by Lord Mount Edgcumbe.

Mr. Thornton, his Majesty's late Minister at the Court of Sweden, on his return.

Mr. Cowper Hincks, on going abroad, by Mr. Leigh.

Cornet Arnold, Royal Horse Guards, by the Lord in Waiting

Col. Sir John Campbell, on his return from France.

Lord Colchester, upon his peerage.

Col. Sir John Clarke, on his return from Spain.

The Earl of Ancram, by the Lord in Waiting.

Hon. Capt. Pellew, on his return from abroad.

Master Leith, son of the late Lieut. Gen. Sir J. Leith, to return his father's badge as a Knight Grand Cross of the Bath.

Thos. Hoseason, Esq. by Lord Suffield.

Major Bloomfield, by Sir B. Bloomfield.

Mr. Bacon, eldest son of Sir Edmund Bacon, Bart.

Rev. Algernon Peyton, by Lord Bayning.

Adm. Viscount Exmouth, with the Cornwall Address.

Lieut. Charles Fitzroy Maclean, on his appointment to the 3d Guards, by his father, Lieut. Gen. Fitzroy Maclean.

Capt. Hickey, R. N. on being appointed to the Blossom frigate.

Capt. Jackson, R. A. on his return from Canada.

Capt. Webber, Royal Horse Artillery.

Capt. Gray, R. A. on his return from abroad.

Capt. Deacon, R. A. on his return from the Continent.

Mr. H. Walpole, 3d Guards, on his appointment.

Sir Arthur Chichester, on going abroad.

Dr. Paris, to present his Essay on the Methods of Preventing Accidents from Explosions in the Mines of Cornwall.

Rev. Dr. Fletcher, on his appointment.

Dr. Highmore, to present a Petition.

Mr. Humphry Butter, on his return from Ireland.

[*The Courier*,—*July* 2.

THE EIGHTEENTH OF JUNE
ANNIVERSARY OF THE BATTLE OF WATERLOO.

This memorable day, which should

" Ne'er go by —

— to the ending of the world"

without exciting the pride and the gratitude of every heart in the empire, has been selected for the opening of one of the grandest works of art, named appropriately after the greatest victory.

It will not be uninteresting to our readers to read the following descriptive particulars of the Bridge of Waterloo, extracted from a small well-written Pamphlet, by Mr. B. Johnson, of the Savoy.

DESCRIPTION OF THE BRIDGE OF WATERLOO, &c.

The Savoy Palace, situated on the northern bank of the river Thames, was chosen for the spot from which a bridge should be erected, to pass over to the county of Surry; the bridges already erected, namely Westminster & Blackfriars, being at a great distance from each other, owing to the curved course of the River, which thereby rendered the passage from Covent Garden and the parts adjacent, to the Surry side excessively inconvenient and circuitous.

To obviate this difficulty, a Bridge was projected nearly at an equal distance between the two, and though undertaken by individuals under an Act of Parliament, has been executed in a manner wholly without example for the public spirit displayed by them. In general the persons who undertake such a enterprise seek to obtain the proprosed advantage to themselves at the cheapest rate; they calculate high profits and the lowest possible expenditure; but the proprietors of the Waterloo Bridge, highly to their honour, have in the first instance only studied magnificence and durability.

The most durable and expensive materials (Granite) have been employed, under the ablest Engineer of the day, Mr. Rennie, who has with much skill and unremitting attention, brought to a conclusion a work, which will remain a monument of his ability, and of the liberality and public spirit of the proprietors.

The British Parliament, by an Act (dated 1816), gave the Bridge the name of Waterloo—They thought, that the first monument for one of the greatest Victories, should be the grandest Bridge that ever was erected.

DIMENSIONS OF THE BRIDGE.	Feet.
The length of the stone bridge within the abutments	1242
Length of the road supported on brick arches on the Surrey side of the river	1250
Length of the road supported on brick arches on the London side	400
Total length from the Strand, where the building begins, to the spot in Lambeth where it falls to the level of the road	2890
Width of the Bridge within the balustrades	42
Width of pavement or footway, on each side	7
Width of road for horses and carriages	28
Span of each arch	120
Thickness of each pier	20
Clear water-way under the nine arches, which are equal	1080
Number of brick arches on the Surry side	40
Number of ditto on the London side	26

LENGTH OF THE OTHER BRIDGES IN LONDON.	
Westminster from wharf to wharf	1223
Blackfriars	940
London Bridge	900
Vauxhall Cast Iron Bridge	360

The whole of the outside courses of the Bridge is Cornish Granite, except the balustrades, which are of Aberdeen Granite; and the stones, like those of the Temple of Solomon, were cut to their form before they were brought to the spot.

There are 320 piles driven into the bed of the river under each pier, the length of each pile from 19 to 22 feet, and the diameter about 13 inches; there is one pile to every yard square.

The scientific manner in which the centres were constructed was admirable, and as all the arches are of the same size, the centres were removed from those that were finished, and placed on the piers where the arches were not yet thrown; this was an operation that required great skill and care, and was very ably executed.

When the centres were removed, so solidly and well was the masonry constructed, that in the middle they only sunk about one inch. Those of the Pont de Neuilly in France, six miles from Paris, which are nearly similar, sunk about 18 inches in the middle, after the centres were taken away.

The scientific principle on which the centres were constructed, which does great credit to Mr. Rennie, the Engineer, was that of the *longitudinal incompressibility of timber*, The strongest and largest beams of wood bend and yield when pressed upon laterally, and by that means the form of a centre constructed in the usual manner, is different when loaded from what it is when not loaded; but as no weight that men are acquainted with, when acting gradually, will shorten the length of a beam, it was so contrived, that the pressure acted always longitudinally or lengthways, and not laterally or side-ways; so that those centres remained in form unchangeable, as much as if they had one solid mass of matter, the two extreme points resting on the firm and well constructing piers.

In circular arches, such as those of Westminster or Blackfriars Bridges, the pressure on the centres before the key stones are put in place, is not near so great as in eliptical arches like those of Waterloo.

The bridge was only six years in building. It is exactly on a level with the Strand where it joins, and is fifty feet above the surface of the water of the River Thames.

The first stone of the Bridge was laid on Friday the 11th of October 1811, by Henry Swann, Esq. M. P.; a bottle containing coins of his present Majesty's reign, was deposited in the first stone, over which, a plate with the following inscription was laid:—

"This foundation stone of the Strand Bridge, was laid on the 11th day of October, A. D. 1811, by the Directors for executing the same, Henry Swann, Esq. M. P. Chairman, in the 31st year of the reign of King George the Third, and during the Regency of his R. H. George Prince of Wales: the money for building which, was raised by subscription, under the authority of an Act of Parliament.

"Engineer, JOHN RENNIE, F. R. S"

The Names of the Gentlemen who have had the conducting of this Work;—Henry Swann, Esq. M. P. Chairman; Sir T. Tirwhitt, Knt.; Sir J. S. York, M. P.; Sir William Rawlins, Knt.; Rev. J. Rush; J. Kingstone; J. Duddell; V. Rutter; B. Bricknell; E. Bilke; J. Brogden, M. P.; and J. Morris, Esq.—Directors.

[*The Courier*,—*June* 18.

LAW INTELLIGENCE.

CONSISTORY COURT, DOCTORS'-COMMONS.

LADY HERBERT *v.* LORD HERBERT.

In this case, which is a suit for restitution of conjugal rights, at the instance of Lady Herbert against Lord Herbert, and is now in a course of proceeding in pain of his Lordship's non-appearance, a libel was offered to the Court on the part of her Ladyship, and

Dr. PHILLIMORE and Dr. LUSHINGTON, as her counsel, were about to move the Court to admit it to proof, when

A Proctor appeared for Lord Herbert, under protest, as to the jurisdiction of the Court.

This being the last day of the Term, proceeding on the protest could not be forwarded until November next, and the effect of the step thus taken would therefore be to postpone on the subject matter at issue between the parties, until after the decision of this incidental question.

Dr. PHILLIMORE and Dr. LUSHINGTON, adverting to the steps taken prior to the Court's granting permission to proceed with the suit *in pœnam*, contended, that it was evident from thence, that Lord Herbert must have been cognizant of the suit; but not having thought proper to appear he ought not to be permitted to defeat the ends of justice by the course he had now adopted.

Dr. SWABY, on the part of Lord Herbert, contended, that the Court had no discretion to exercise in such an instance as the present. It could not, upon any rule of practice whatever, proceed with a suit whilst a party was before it protesting against its jurisdiction.

Sir W. SCOTT remarked, that when, on the application to proceed *in pœnam*, he had directed the matter to stand over for a time for his consideration, he expressly stated that the party prosecuting should experience no disadvantage from the delay, and he had therefore to dispose of the present application with reference to this pledge. He considered it to be sufficiently apparent that Lord Herbert had had notice of the prior proceedings, and might, if he had thought proper, have met the question he had now raised at an earlier period. He had had great indulgence shown him, but had only availed himself of it for purposes of delay. The Court could not certainly admit the libel in the present state of the cause, but it might permit the witnesses to be examined *de bene esse*, in order not to lose the benefit of the vacation for that purpose, and this, under the circumstances of the case, he (Sir Wm. Scott) should certainly do. Permission granted accordingly.

LADY KIRKWALL *v.* LORD KIRKWALL.

In this case, which is a suit for divorce upon the ground of adultery, Lady Kirkwall's proctor applied to the Court to allot her a farther sum of money on account of alimony.

He stated, that his Lordship's answer with respect to his property had just been given, but at too late a period to have the question of alimony, during the suit, then disposed of. These answers set forth various incumbrances on his Lordship's property, reducing it altogether to only 3,100*l.* per annum. Taking it, however, at this sum, it would be November next before the question of alimony could be settled, and by that time the suit would have been a twelvemonth depending; and for such a period he hoped the Court would not think 800*l.* too much for her Ladyship's allowance out of the income just stated. She had already received 250*l.* and he therefore prayed the Court to allot her a farther sum of 550*l.*

Lord Kirkwall's proctor objected to this application. He stated, that in a suit depending in the Court of Chancery, relative to a deed of separation which had been entered into between the parties, his Lordship had to pay into Court the a[illegible] maintenance, and Lady Kirkwall [illegible] 250*l.* he hoped the Court would n[illegible] any farther allotment.

Lady Kirkwall's proctor stated, that [illegible] paration provided that all separate mainte[illegible] cease immediately upon any suit being br[illegible] by her Ladyship; and Lord Kirkwall had, therefore, no occasion, unless he thought proper, to have subjected himself to the inconvenience which he complained of in the Court of Chancery.

After some little discussion, Sir W. SCOTT allotted the sum of 350*l.* in addition to the former allotment.

[*The Courier*,—*July* 5.

ROLLS COURT, JUNE 28.

LORD CHOLMONDELEY *v.* LORD CLINTON.

His Honour the MASTER of the ROLLS having announced his intention of giving judgment in this long depending and important cause, the Court was early crowded to excess. All the leading Counsel and nearly the whole of the Chancery Bar were present. Upon the Bench, by the side of his Honour, were Lord Spencer and Lord Auckland, the Marquis of Lansdowne, and Lord Sefton. Several Ladies of rank, interested in the result, were also present.

His HONOUR commenced his Judgment by referring to the state of the question as it appeared upon the pleadings, observing that it was purely a question of law depending upon the effect and operation of deeds, and the limitation contained in them. He found that the last absolute possessor of the estates, the subject of the present suit, was George, Earl of Orford, who died in the year 1791. Being the absolute possessor, he in the year 1781 executed a settlement, on the effect of which the first and principal question in the cause depended. By that deed, after a recital, he limited the estates to himself for life, with remainder to the heirs of his body, and in default of issue, with remainder to Samuel Rolle. Under this limitation, the defendant claimed to be entitled, and there was no doubt he was the person designated, the person in whose favour Lord Orford intended the limitation should ultimately take effect. There could be no doubt the intention of Lord Orford was, that the heirs of his mother should, in failure of his issue, be the persons to whom the estates were to descend: but, unfortunately for Lord Clinton, a blunder had been committed in the mode of expressing that intention, and the settlement had been so worded, that the last remainder, instead of vesting in the heirs of his mother, reverted to the right heirs of himself. The present right heir of Lord Orford was unquestionably Mrs. Damer, one of the plaintiffs. It was much to be regretted that there was nothing in the present case which was executory—nothing that gave the Court the power to alter or modify the particular expression of the Deed of Settlement, so as to place the parties in the situation in which they were evidently intended to stand. He had looked into all the precedents which had been referred to at the Bar, and had not found one that would authorise him to put a construction on the settlement different from what the strict interpretation of the words imported, even if the question related to a will instead of a deed. For these reasons his Honour was of opinion, that under the settlement of 1781, Lord Clinton took no estate or interest. The next point was, whether what had been the obvious intention of Lord Orford by the deed of 1781, had been confirmed by the effect of a subsequent deed executed in 1794, after the death of his Lordship. Upon this part of the case his Honour was of opinion, that the construction contended for by the defendant was not the true one, and that nothing in the deed of 1791 was confirmatory of the intention of Lord Orford. The last point upon which the defendant's Counsel had laid stress was whether the right of the plaintiff's was not barred by the statute of limitations? It had been insisted that Lord Clinton had acquired an indisputable title by twenty years possession. He was of opinion that there was no pretence for the operation of the statute of limitations. Lord Clinton, although he had been long in possesion of this immense property, had never any thing but a precarious, or permissive possession, which, whatever might be its duration could never ripen into a legal possession. Upon the whole, the conclusion of his Honour was, that the right to this property, as well as the equity of redemption of such part as was in mortgage, was in Mr. Damer, and that Lord Cholmondeley had no interest but what was communicated to him by Mrs. Damer. There was a remaining question as to a mortgage to Sir Lawrence Palk. The consideration of that part of the subject would make no difference as to his judgment, for it appeared that Sir Lawrence Palk had advanced his money on a bad title, and had therefore no claim on the property. His Honour finally observed, that as this was strictly a legal question and involved such very important interests he would recommend, if the Counsel for Lord Clinton approved the suggestion, that it should be sent to a Court of Law.

Sir S. ROMILLY said, that without waiting to consult Lord Clinton, he would himself take the case his Honour had offered for the purpose of having the decision of a Court of Law.

[It is supposed the property Lord Clinton loses by this decison, will, in its amount greatly exceed 20,000*l* a-year.]

[*The Courier*,—*June*, 30.

BOMBAY.—PRINTED FOR THE *PROPRIETORS*, BY M. D. CRUZ, IN BAKE-HOUSE LANE,

WERE ADVERTISEMENTS, ESSAYS, POETICAL PIECES, ARTICLES OF INTELLIGENCE, &C. &C. WILL BE THNKFULLY RECEIVED.

Gentlemen about to change their stations, are requested to give notice to the PRINTER, *who will pay due attention to their Orders.*